

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Alquist & Cunneen Analyst: Kristina North Bill Number: AB 2

Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: 12/07/98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Exclusion/Educational Assistance Program Payments/Includes Graduate Level Courses

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would allow an employee taking graduate level courses to annually exclude up to \$5,250 from gross income that his or her employer pays or incurs for the employee's costs for those courses.

EFFECTIVE DATE

This bill would be effective immediately upon enactment and would apply to taxable years beginning on or after January 1, 1999. However, the bill specifies that it would apply only to graduate courses beginning after June 30, 1999.

LEGISLATIVE HISTORY

AB 1360 (1997/98); AB 1747 (1997/98); SB 38 (Stats. 1996, Ch. 954),

BACKGROUND

Federal law provided an exclusion from gross income, to which state law conformed, not to exceed \$5,250 per year for the amount paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee for graduate and undergraduate courses taken before December 31, 1994. The federal and state provisions were not operative for taxable years beginning after December 31, 1994.

However, in August 1996, federal law, to which state law conformed, provided a retroactive extension providing an exclusion from gross income taken for both undergraduate and graduate courses taken before July 1, 1996, and for only undergraduate courses taken before July 1, 1997.

The following month, in September 1996 (SB 38, Stats. 1996, Ch. 954), the state repealed its educational assistance conformity provision and adopted a permanent state provision, which mirrored federal law by providing that expenses for graduate courses were not excluded from gross income.

The federal Taxpayer Relief Act of 1997 extended the gross income exclusion only for undergraduate courses taken beginning before June 1, 2000.

Board Position:

| | | |
|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Gerald Goldberg

1-28-99

SPECIFIC FINDINGS

Current federal and state law exclude from gross income the amount, not to exceed \$5,250 per year, paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee taking undergraduate courses. For purposes of the exclusion, educational assistance does not include courses taken at the graduate level leading to a law, business, medical, or another advanced academic or professional degree beginning after June 30, 1996.

This bill would allow an employee to exclude employer-paid expenses for graduate courses taken beginning on or after June 30, 1999.

Policy Considerations

This bill would establish an exclusion which would not have a counterpart in federal law, thus increasing the complexity of income tax preparation for the employers providing the educational assistance and the employees who benefit from the exclusion.

Implementation Considerations

The implementation of this bill would not significantly impact this department.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Revenue Estimate

The revenue losses from this bill are estimated to be:

| Fiscal Year Revenue Loss \$ Millions Assumes Enactment After June 30, 1999 | | |
|--|-----------|-----------|
| 1999/2000 | 2000/2001 | 2001/2002 |
| (\$7) | (\$14) | (\$14) |

This estimate does not account for changes in employment, personal income, or gross state product which could result from this bill.

Tax Revenue Discussion

The current state revenue loss from the exclusion of undergraduate educational expenditures is estimated at \$7 million per year. Based on prior year patterns of similar tax expenditures at the federal level, it is assumed that the revenue loss for graduate level expenses is twice that for undergraduate expenditures. Therefore, the estimated revenue loss to California is \$14 million per year.

BOARD POSITION

Pending.